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MEMORANDUM NUMBER 8

Montana Constitutional Convention Memorandums

Prepared By: Montana Constitutional Convention Commission

Memorandum on Convention Preparation Including Preparatory Research, Public Information Programs and Convention Arrangements

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MONTANA CONSTITUTIONAL CONVENTION

1971-1972

MEMORANDUM ON CONVENTION PREPARATION INCLUDING PREPARATORY RESEARCH, PUBLIC INFORMATION PROGRAMS AND CONVENTION ARRANGEMENTS

CONSTITUTIONAL CONVENTION MEMORANDUM NO. 8

PREPARED BY

MONTANA CONSTITUTIONAL CONVENTION COMMISSION

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CONSTITUTIONAL CONVENTION COMMISSION

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PREFACE

The delegates to the 1971-72 Montana Constitutional Convention will need historical, legal and comparative information about the Montana Constitution. Recognizing this need, the 1971 Legislative Assembly created the Constitutional Convention Commission and directed it to assemble and prepare essential information for the Convention.

This Memorandum summarizes the research, public information and convention arrangement activities of the Constitutional Convention Commission. The work of the Commission is intended to facilitate the work of the Convention by making necessary preparations prior to the opening of the Convention on November 29, 1971.

The responsibilities of the Commission end when the Convention is called to order November 29. We will have prepared reports on the Constitution for the assistance of the delegates; we will have studies on the operation of constitutional conventions elsewhere and made suggestions to the delegates for the operation of the Montana Convention; we will have recruited and trained a small research staff for the use of the Convention; and we will have kept the public informed on pre-convention activities. But on November 29, our responsibility ends--and the Convention's begins.

This report is respectfully submitted to the people of Montana and their delegates to the 1971-1972 Constitutional Convention.

ALEXANDER BLEWETT

CHAIRMAN

PREPARATORY COMMISSION

Two very important factors in the success of recent constitution writing and revision have been the increased attention paid both to the technical preparation for and popular participation in the constitution writing process. Planning for the convention involves three operations:

1. comprehensive research to identify and clarify the significant issues, problems and alternative methods of change;

2. planning a program and preparing materials for informing the public on constitutional issues; and

3. planning the physical facilities for the convention.

The enabling act created a temporary state agency known as the Montana Constitutional Convention Commission, consisting of sixteen (16) members, to prepare for the Constitutional Convention. The commission is authorized to undertake studies and research; to compile, prepare, and assemble essential information for the delegates, without any recommendation.

Careful advance preparation is indispensable for modern constitution making and revision. Since the 1915 New York constitutional convention established the pattern for preparatory research, no modern constitution approved by the voters has been drafted or extensively altered without systematic research and careful preparation of materials. No group of constitution-makers can be expected to have the personal knowledge necessary to deal with the complex issues and problems that confront them in performing their task effectively. Research for constitutional conventions has varied widely. Typically it has been of factual, background nature designed to provide information essential for informed basic decision-making action.

Of the twenty major state constitutional conventions since 1938, 19 have been preceded by preparatory bodies. Legislators served on 11 of the nineteen preparatory groups, 5 were made up entirely of appointees of the governor and three were composed of faculty groups from the state universities.

Preparatory commissions in Hawaii, Michigan, New York, Pennsylvania, and Illinois prepared background and comparative studies on particular aspects of the constitutional

system, citing the experience of other states and relating the data specifically to the local constitution. A number of commissions, exemplified by commissions in Arkansas, Maryland, and New Mexico prepared substantive recommendations to the conventions in the form of a draft constitution.

Preparatory work played a crucial role in enabling the New Jersey, Missouri, Puerto Rico, Alaska, Hawaii, Pennsylvania and Illinois conventions to write what are unquestionably among the best constitutions for states or commonwealths. Public information programs were crucial in obtaining voter approval of proposed constitutions in Pennsylvania, Hawaii and Illinois.

The preparatory commission will perform three functions:

1. conduct research and assemble essential information for the delegates;

2. conduct a public information program to keep the Montana public informed of every step in the convention process; and

3. make arrangements for the convention including site, facilities, reproduction of convention documents, and proposed staff needs.

The preparatory commission staff will be available to the Constitutional Convention to assist delegates during the convention.

RESEARCH

The Convention will have two kinds of research needs. When delegates assemble they will need full, detailed and comprehensive analyses of the constitutional problems confronting Montana. The rank-and-file delegate can hardly be expected to be an authority in all matters impinging upon the constitutional structure of the state. He needs material which he can turn to immediately and continually.

In addition, as no one can anticipate all the informational needs of a convention nor predict accurately all the issues that will arise, provision must be made for continuing research during the life of the convention.

Research Staff

A research staff of seven hired by the Constitutional Convention Commission is preparing a series of reports for the Convention on the Montana Constitution and will be available to serve as research staff for the Constitutional Convention.

Library

The Commission has authorized the collection and indexing of a special library on state constitutions for the Constitutional Convention. Certain material has already been collected, other items will be borrowed, purchased or reproduced. The kinds of material needed may be categorized as follows:

- Annotated constitutions of the various states
- Multiple copies of the annotated constitution of the United States
- Several bound sets of the Montana Reports
- Several sets of the Revised Codes of Montana, 1947
- Several sets of the Laws of Montana
- General reference material on Montana government
- General studies on state constitutions and constitutional revision
- Records of conventions held in other states
- General studies of American state and local government
- Major state newspapers
- Background studies on substantive constitutional areas

Arrangements are being made for the use of the collection of other libraries when feasible and necessary.

Constitutional Convention Studies

The reports listed below are being prepared and published for the use of the Constitutional Convention by the Constitutional Convention Commission. The preparation of the reports: Issues for the Constitutional Convention; The Montana Constitution; An Annotated and Comparative Analysis; and Constitutional Convention Rules, Organization and Procedures constitute the major research efforts of the preparatory Commission staff.

CONSTITUTIONAL CONVENTION ENABLING ACT. REPORT NO. 1.

This report will contain the enabling act for the Constitutional Convention adopted by the Legislature. Each section of the enabling act will be followed by a comment that will explain the effect of each provision.

MANUAL ON MONTANA GOVERNMENT. REPORT NO. 2.

This report will survey the structure powers and duties of Montana state and local government units as provided for by the Constitution and state laws. It will give the delegates an overview of the contemporary organization of state and local government and a review of the services and functions of each level of government.

THE CONSTITUTION OF MONTANA AND THE CONSTITUTION OF THE UNITED STATES WITH INDEX. REPORT NO. 3.

For easy reference, the text of the constitution of the United States and Montana will be reproduced with an attached index.

THE STATE CONSTITUTION, ITS NATURE AND PURPOSE. REPORT NO. 4.

This report will be a collection of reading on state constitutions collected from the pertinent literature and republished with the permission of the authors and original publishers.

MONTANA CONSTITUTIONAL HISTORY. REPORT NO. 5.

This report will trace the history of constitution writing in Montana from the first convention in 1866 through the referendum to call the Constitutional Convention in 1970.

NEW STATE CONSTITUTION. REPORT NO. 6.

This report will republish for the use of the delegates several recent constitutions written in other states.

CONSTITUTIONAL CONVENTION RULES, ORGANIZATION AND PROCEDURES REPORT. NO. 7.

A convention is a once-in-a-lifetime experience. Except for those with prior legislative service, the delegates will probably be ill-informed concerning the structure and procedures

of an organization like a convention. This can be anticipated by providing an administrative manual for the delegates.

The convention will have the power to adopt rules of procedure and employ Convention staff. The valuable time of the Convention can be saved by pre-planning in these areas. The Commission staff will prepare a comparison of rules used by other constitutional conventions and a set of suggested rules for consideration by the Convention.

Before adopting rules of procedure, the Convention will be able to review the rules of recent constitutional conventions in other states; the rules of the 1866 and 1889 Montana Conventions; the rules of the Montana Legislative Assembly; and the rules proposed by the Commission.

The Commission staff will also review the organizational structure of the Montana House of Representatives and recent conventions in other states and propose an organizational plan for the number of, and duties of, Convention employees. The manual will also include suggested procedures for Convention accounting and for processing of Convention documents and sample forms for Convention documents.

The Commission staff will also plan for, and the manual explain, Convention and State services and aids for the delegates.

The powers of the Constitutional Convention will be reviewed. This report will contain information on style and form requirements of State Constitution drafting and the problems of transitional articles and schedules of legislation. Possible methods of submission and ratification of the proposals of the Convention will also be discussed.

THE MONTANA CONSTITUTION: AN ANNOTATED AND COMPARATIVE ANALYSIS. REPORT NO. 8.

During the course of the Convention, the members will require a great deal of historical, legal, and comparative information about the present constitution. The purpose of this volume is to present as much of this information as possible in a readily usable form.

The approach will provide an analysis of each section of the 1889 Constitution. Thus, for each section, there will be a history of its development at the 1884 and 1889 Conventions, subsequent amendments, an explanation of its meaning, relying, in particular, on judicial interpretations; a brief comparison with similar provisions in the constitutions of other

states; and lastly, such comment as is considered appropriate by the Commission. The section analyses are intended to constitute a definitive reference work on the present Constitution for the Convention members and research staff.

The preparation of this work will include a review of pertinent literature, rely heavily on appropriate legal documents and state and federal court decisions. Considerable attention will also be given to the debates and journals of the 1884 and 1889 Constitutional Conventions. The principal basis for the comparative analysis will be the Index Digest of State Constitutions and the Constitutions of the United States, National and State, both published by the Legislative Drafting Research Fund of Columbia University.

INTRODUCTION AND SUMMARY. REPORT NO. 9.

BILL OF RIGHTS. REPORT NO. 10.

SUFFRAGE AND ELECTIONS. REPORT NO. 11.

THE LEGISLATURE. REPORT NO. 12.

THE EXECUTIVE. REPORT NO. 13.

THE JUDICIARY. REPORT NO. 14

TAXATION AND FINANCE. REPORT NO. 15.

LOCAL GOVERNMENT. REPORT NO. 16.

EDUCATION. REPORT NO. 17.

GENERAL AND MISCELLANEOUS PROVISIONS. REPORT NO. 18.

REVISION AND AMENDMENT. REPORT NO. 19.

This series, which is the major research project of the Commission staff, will discuss the substantive constitutional issues of state and local government. The series will compile background and comparative material on each major area of the constitution, citing the experience of other states and relating the data specifically to the Montana Constitution. This series is intended to contain information on the major subjects and issues likely to come before the Convention.

The series will be as broad in scope as possible. The number of studies and scope of each study will be the same as that of the potential committees of the Constitutional Convention that will use the studies.

The preparation of these studies will include a review of the similar series prepared for constitutional conventions in other states and other pertinent literature on state constitutions.

The organization of the research staff will parallel the list of issues. Staff researchers who prepare a particular study will be available to the appropriate committee of the Convention as a staff consultant; i.e. the staff researcher who prepares the report on the Legislative Article will be available to work, during the Convention, with the Convention Committee on the Legislature.

BIBLIOGRAPHY. REPORT NO. 20.

This volume will present, for the delegates' information, a detailed listing of publications cited in other reference reports, along with other writings on the general subject of constitution making. Efforts will be made to have available in the Convention reference library a copy of every publication listed in the bibliography. The bibliography will be prepared from other published bibliographies of material on state constitutions.

Constitutional Convention Occasional Papers

MONTANA CONSTITUTION OF 1184. REPORT NO. 1.

ENABLING ACT FOR THE MONTANA CONSTITUTIONAL CONVENTION OF 1889. REPORT NO. 2.

MONTANA TERRITORY ORGANIC ACT. REPORT NO. 3.

CONSTITUTIONAL CONVENTION OF 1866. REPORT NO. 4.

COMPARISON OF THE MONTANA CONSTITUTION WITH THE CONSTITUTIONS OF SELECTED OTHER STATES. REPORT NO. 5.

LEGISLATIVE COUNCIL REPORT ON THE MONTANA CONSTITUTION. REPORT NO. 6.

CONSTITUTIONAL PROVISIONS PROPOSED BY CONSTITUTION REVISION COMMISSION SUBCOMMITTEES. REPORT NO. 7.

The Commission will republish for the use of the Convention delegates some occasional papers on certain constitutional documents that are not otherwise readily available.

Constitutional Convention Research Memorandums

The research memorandums will be individual studies of specific topics that do not warrant the status of official Commission reports.

PUBLIC INFORMATION

In the area of constitutional change, all critical decisions must be approved by the voters. They have taken the first step by voting to call the Convention. The responsibility for electing qualified delegates will rest with the people, as will the final responsibility to approve or reject the proposals of the Convention. With an adequate informational program, the voters will be well prepared to pass sound judgment of the Convention proposals when the time comes to vote.

Failure to organize and carry out an effective public information and education program is to ask the voters to vote on important questions without adequate information. A public information program will encourage wide public examination of the issues involved in constitutional revision.

The process of a public information program is essential for full participation of the public throughout the convention process. Lack of information contributes to the public's distrust of the process of change.

The public information activities will provide a sound basis for public participation in the task of revising the Montana Constitution. Needless and divisive misunderstandings and controversy will be avoided, both in writing the constitution and in voting on it, if the Convention and the rest of the public is well informed.

The issues involved in writing a new constitution or rewriting an existing one are complex and outside the voter's everyday experience. An interest in the issues of constitutional revision must be developed over a long period of time if the public is to judge knowledgeably the Convention's product.

The process of informing the public on constitutional issues was begun by the Constitutional Revision Commission, prior to the vote on calling the Constitutional Convention and undoubtedly contributed to the overwhelming vote of the people to call the Convention. The Constitution Revision Commission and the private Constitutional Convention Committee utilized every media and medium to carry information on the Montana Constitution to Montana voters.

The Commission prepared and distributed brochures, pamphlets, flyers and speaker kits on the Constitution and the Constitutional Convention. The Commission sponsored a statewide speakers bureau and conducted conferences and special meetings. A comprehensive series of six articles on the Constitution was prepared and distributed to every weekly and daily newspaper. Articles were prepared for major state magazines, television and radio interviews and programs were arranged. Public service announcements in addition to newspaper, radio and television ads were utilized.

Public information activities have included maximum involvement of the general citizenry and business, agricultural, professional, industrial, civic, religious and governmental groups. Thirty-six state organizations endorsed the calling of the Convention and disseminated information to their own members.

Even though the ground work for an informed citizenry has been laid, there remains much to be done in the area of public information. It is essential that comprehensive public information programs be conducted:

1. during the election of delegates and prior to the Convention;

2. during the Convention; and

3. after the Convention has adjourned and submitted its proposals to the voters for ratification or rejection.

The following public information programs are being conducted by the Constitutional Convention Commission:

Commission Members are available as speakers to service clubs, school, civic organizations, etc.

The Commission is investigating the preparation of a film by Montana State University on the Convention and the new constitution.

The Commission will distribute a comprehensive series of six background articles on the constitution to the daily and weekly press during September and October.

The Department of Public Instruction in cooperation with the Commission is preparing a study guide for high school classes.

The Montana State University Extension Service is publishing a book on the Constitutional Convention for public distribution as a public service.

The Commission is answering requests for information on the operation of the Constitutional Convention.

The Commission has coordinated the arrangements, but is not sponsoring, five public seminars on the Constitutional Convention:

Missoula - October 14 and 15
University of Montana School of Law and Citizen's Committee on Court Improvement
Judicial Branch

Great Falls - September 22
League of Women Voters
Local Government

Billings - September 24 and 25
Eastern Montana College
Executive Branch

Billings - October 1 and 2
Rocky Mountain College
Taxation and Education

Glasgow - October 8 and 9
AAUW
Legislature

CONVENTION ARRANGEMENTS

Although research and public information activities are the principle functions of the preparatory Commission, preparatory commissions usually make convention arrangements including proposed rules and organization, site, facilities, and staff needs of the Constitutional Convention.

The Convention will be held in the House of Representatives Chambers at the State Capitol in Helena. Senate Joint Resolution No. 15 provides that the Convention and the Commission may use any of the facilities, furniture, fixtures, supplies and other property of the Montana Legislative Assembly.

The Commission staff will plan the logistics of assembling the Constitutional Convention well in advance of convening date. Many of the activities listed below require advance planning and coordination with various departments of the State government.

Arrange, Furnish and Prepare Convention Facilities

Coordinate use of House Chamber and auxiliary Capitol space, including assignment and furnishing of rooms for committees, staff, clerical work, delegates, press, etc.

Order supplies for Convention.

Arrange for Convention equipment, including typewriters.

Arrange for use of public address system and voting machine.

Arrange for duplication of Convention documents.

Arrange for installation of telephone system for Convention.

Analyze and Recommend Convention Staff Needs

The Commission staff will analyze the staff requirement of the Constitutional Convention, reviewing the staffing of recent conventions in other states and the staffing of the Montana House of Representatives.

The Commission staff will recommend a proposed staff organization, develop job descriptions, and suggested salary scales.

The Commission staff will contact all employees of the Forty-second Legislative Assembly, or other persons who have applied, and invite them to submit applications for employment.

The Commission staff will arrange for the testing of applicants by the Montana Employment Security Office, review employee evaluation forms prepared during the Forty-second Legislative Assembly, interview supervisory personnel of the Forty-second Legislative Assembly, and transfer this information to the Constitutional Convention when it convenes.

The Commission will not be involved in employee selection. The Convention will hire a permanent

staff for the Constitutional Convention during the interim between the organizational session in November and the plenary meeting of the Convention in January.

The Commission staff will serve as a temporary staff for the three-day organizational session of the Constitutional Convention.

ORIENTATION SESSION

The Constitutional Convention Commission will sponsor a two-day "orientation session" for all elected delegates on Saturday and Sunday, November 27 and 28, preceding the opening session of the Convention on Monday, November 29. The "orientation session" will be similar in format to the orientation that is provided for freshman legislators prior to each session of the Legislature. The "orientation session" will provide the Delegates with an opportunity to meet each other prior to the opening session on Monday when they will elect officers. Delegates will be briefed on the Commission's work; facilities and service available for the Delegates; the agenda for the opening day of the Convention; payroll procedures, etc.; and the Commission's reports will be furnished to the Delegates.

The Convention rules suggested by the Commission will be discussed, and there will be guest speakers from recent conventions in other states.